IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2395 OF 2007

Union of India and others .. Petitioners
v/s.
M.K. Gupta .. Respondent

Mr. R.V. Desai, senior counsel with Mr. Suresh Kumar for the petitioners.
Mr. C.U. Singh, senior counsel with Mr. Rahul G. Walia for the respondent.

CORAM : F.I. REBELLO AND
R.M. SAVANT, JJ.
DATED : 19TH APRIL, 2007

P.C.

The matter was placed before us for interim relief. At the hearing of the petition, the parties agreed that the petition itself to be disposed of and the details reasons need not be given.

2. The petitioners had approached this court against the order of the Central Administrative Tribunal, Bombay Bench, Mumbai dated 12th February, 2007. By that order, the learned Tribunal was pleased to allow O.A. and had set aside the impugned disagreement memo dated 31.10.2003 and order dated 21.4.2005. The learned Tribunal directed the petitioners herein to reinstate the respondent-original applicant forthwith with a direction that he is entitled to all the consequential benefits in accordance with law. This order was the

subject matter of challenge before us.

3. Various contentions have been urged on behalf of the petitioners as also the respondent. In our opinion, the law is now well settled,. If any part of enquiry is vitiated, the matter has to go back to the stage from which the proceedings were affected either on account of failure to comply with the statutory provisions or the principles of natural justice and fair play. In the instant case, there is no dispute that upto the stage of the findings by the enquiry officer, there is no procedural infirmity of violation of principles of natural justice and fair play. The dispute is in respect of the subsequent stages. It is the contention of the petitioners that enquiry officer has not exonerated the respondent. The contention of the respondent is that he has been completely exonerated. We need not go into this aspect of the matter. It is for the Disciplinary Authority, if he agrees or disagrees with the findings of the Enquiry Officer to follow the procedure laid down. In the instant case, the disciplinary authority is the Member Engineering, Railway Board. The petitioner was holding the post of Chief Engineer.

4. In these circumstances, in our opinion, the impugned order of the Tribunal not for the reasons recorded but otherwise on account of the procedural infirmities in the enquiry proceedings the memo dated 31.10.2003 and the order dated 21.4.2005 are quashed and set aside. The matter is remanded back to the Member, Engineering Railway Board to take steps in terms of the procedure laid down according to the rules applicable to the respondent herein from the stage of findings recorded by the Enquiry Officer. We make it clear that the petitioners, apart from the report of the enquiry officer, to

consider the matter afresh without being influenced by the earlier order. It will be open to the petitioners to take such steps in law as they are entitled to. Considering the procedure to be followed, we think it appropriate, that we grant to the petitioners, six months time to complete the disciplinary proceedings and pass order according to law. Rule made absolute accordingly. No order as to costs.

(F.I. REBELLO, J.)

(R.M. SAVANT, J.)